

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ANTHONY W. SMITH,

Plaintiff, ) 1:16-cv-01078

v.

) Judge Edmond E. Chang  
) Magistrate Judge Susan E. Cox

BNSF RAILWAY COMPANY

)  
) Jury Demand  
Defendant. )

**NOTICE OF MOTION**

TO: Anthony W. Smith  
Pro Se Plaintiff  
900 Hull Avenue  
Westchester, Illinois 60154  
(708) 651-6179

PLEASE TAKE NOTICE that on February 22, 2016, Defendants BNSF Railway Company filed the attached **DEFENDANT BNSF RAILWAY COMPANY'S MOTION TO DISMISS PLAINTIFF'S PETITION FOR LACK OF SUBJECT-MATTER JURISDICTION** via the Clerk of the Court using the CM/ECF system, a copy of which is attached and hereby served upon you.

Respectfully submitted,

By: /s/ Heather R. Adams

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Heather R. Adams  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certified that on February 22, 2016, the foregoing DEFENDANT BNSF'S MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION was electronically filed with the Clerk of the Court using the CM/ECF system, which sent electronic notice of the filing to the registered attorneys of record in this matter indicated below:

Anthony W. Smith  
*Pro Se* Plaintiff  
900 Hull Avenue  
Westchester, Illinois 60154  
(708) 651-6179

/s/ Heather R. Adams

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v.		) Judge Edmond E. Chang
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BNSF RAILWAY COMPANY	)	
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**DEFENDANT BNSF RAILWAY COMPANY’S MOTION TO DISMISS  
PLAINTIFF’S PETITION FOR LACK OF SUBJECT-MATTER JURISDICTION**

Pursuant to Federal Rule of Civil Procedure 12(b)(1), BNSF Railway Company moves the Court to dismiss Plaintiff’s “Petition to Enforce Back Pay and Benefit Provision in National Railroad Adjustment Board Orders.” The parties’ dispute is properly viewed as a “minor dispute” within the meaning of § 3 First (i) of the Railway Labor Act, over which this Court lacks subject-matter jurisdiction. Plaintiff’s remedy, if any, lies in filing a new claim under the applicable collective bargaining agreement. Alternatively, this dispute requires interpretation of the arbitrator’s award and should be remanded to the arbitrator, where it can be consolidated with BNSF’s pending request for interpretation in that forum. This motion is supported with a separate brief, as required by N.D. Illinois Local Rule 5.3 (b)

Respectfully submitted,

BNSF RAILWAY COMPANY

/s/ Heather R. Adams \_\_\_\_\_  
One of its Attorneys

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/s/ Heather R. Adams